IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3211 OF 2007
IN
FIRST APPEAL NO.2068 OF 2005
WITH
CIVIL APPLICATION NO.3212 OF 2007
IN
FIRST APPEAL NO.2070 OF 2005
WITH
CIVIL APPLICATION NO.3213 OF 2007
IN
FIRST APPEAL NO.2071 OF 2005
WITH
CIVIL APPLICATION NO.3214 OF 2007
IN
FIRST APPEAL NO.2072 OF 2005

Indian Oil Corporation Ltd. ...Applicant
V/s.
Nandkumar Pandurang Kalbhor & Ors. ...Respondents

Mr.C.M. Korde, Sr. Advocate, with Mr.Chandran i/b. Sarkar & Sarkar for the Applicant.
Mr.A.V. Anturkar, Sr. Advocate, i/b. V.V. Bakre Shastri for the Respondent.

CORAM : J.N. PATEL &
A.A. SAYED, JJ.

DATE : 10TH JULY, 2007.

P.C. :

1. Heard.

2. In so far as prayer in the Civil Applications to amend the grounds of Memo of Appeal is concerned, the same is granted. Necessary amendments as per the schedule be carried out and copy of the amended Memo of Appeal be placed on record as well as copy of the same be furnished to the other side.

3. The other prayer relates to the error in calculation of the amount with interest which has been granted by the Reference Court. It is the case of the applicant that the error has occurred due to erroneous calculation and the amount in all the four applications taken together is in the region of Rs.5 lacs. Therefore, it is submitted that either this Court should direct the respondents-claimants to make available the money by depositing the same in this Court or furnish surety to secure the interest of the amount.

4. In the alternative it is also submitted that the applicant may be granted leave pending these Appeals to approach the Reference Court for correcting the arithmetical error under Section 152 of the C.P.C.

5. Mr.Anturkar, learned Senior Counsel, strongly objects to the later part of the prayer which is made in alternative on the ground that the applicant cannot be permitted to agitate the grievance before two forums i.e. in his Appeal by incorporating it as one of the ground for challenging the award and approach the Reference Court under Section 152 of the C.P.C. On the other hand, learned Counsel for the applicant submits that he does not press for the alternative prayer but only wants his interest to be secured during the

pendency of the Appeal.

6. The learned Counsel appearing for the applicant submits that the respondents-claimants have withdrawn the amount of compensation which is more than what they are entitled to, (which together is in the region of Rs.1 crore) for which they should furnish additional surety. We, therefore, dispose of this second prayer with the direction to the respondents-claimants to furnish additional surety to the satisfaction of the Reference Court to cover the amount of Rs.1 crore with interest in addition to the surety to be furnished for the amount of interest which the applicant may be entitled to, in case they succeed in the matter on this count. In order to quantify the interest, without prejudice to the rights of the parties, which would assist the Reference Court in ascertaining the additional security, it is presently fixed @ 6% p.a.

7. All the above four Civil Applications stand disposed of in the aforesaid terms.

[A.A. SAYED, J.] **[J.N. PATEL, J.]**